

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
Case No. 5:20-cv-00085-M

LEVEL AT 401, LP,)
)
Plaintiff,)
)
v.)
)
FIRST CO., EMERSON CLIMATE)
TECHNOLOGIES, INC., and COPELAND)
CORPORATION, LLC,)
)
Defendants.)

**OPINION
AND ORDER**

This matter comes before the court on Defendants' motions to dismiss, filed March 13, 2020. [DE-6; DE-12] For the reasons that follow, Defendants' motions are DISMISSED.


Defendants' motions seek dismissal of Plaintiff's original complaint, which was filed in Wake County, North Carolina Superior Court on February 4, 2020 [DE-1-4] and removed by Defendants to this court on March 6, 2020 pursuant to 28 U.S.C. § 1441 based upon diversity jurisdiction under 28 U.S.C. § 1332 [DE-1]. Plaintiff has not contested this court's jurisdiction over its claims, but did petition the court, with Defendants' consent, for leave to file an amended complaint [DE-19], which the court granted on March 25, 2020. [DE-20] Plaintiff's amended complaint was timely filed on April 24, 2020. [DE-23]

"As a general rule, an amended pleading ordinarily supersedes the original and renders it of no legal effect." *Young v. City of Mount Rainier*, 238 F.3d 567, 572 (4th Cir. 2001) (internal quotation marks and citation omitted). Accordingly, when a plaintiff files an amended complaint, a defendant's pending motion to dismiss the original complaint is rendered moot. *See Superior Performers, Inc. v. Meaike*, No. 1:13CV1149, 2014 U.S. Dist. LEXIS 158862, at *35-36 (M.D.N.C. Nov. 10, 2014) ("[B]ecause

Defendants' arguments contained in its Motion to Dismiss[] pertain to the Causes of Action in Plaintiff's First Amended Complaint, and not to those Causes of Action in Plaintiff's proposed Second Amended Complaint, Defendants' Motion to Dismiss is now moot and must be dismissed without prejudice to refiling based upon the allegations and content of the Second Amended Complaint."'). Defendants' motions were therefore rendered moot by the timely filing of Plaintiff's amended complaint, and said motions must be dismissed. *Id.*

For these reasons, Defendants' motions are DISMISSED without prejudice to refile based upon the allegations and content of Plaintiff's amended complaint.

SO ORDERED this the 5 th day of May, 2020.


RICHARD E. MYERS II
UNITED STATES DISTRICT JUDGE